

REMARKS

Applicant thanks the Examiner for the Examiner's comments in the Office Action, which have greatly assisted Applicant in responding. Additionally, Applicant thanks the
5 Examiner for his phone call on 1 October 2007 to briefly explain that interviews are generally not held during the month of September due to the closing of the USPTO fiscal year. Consequently, Applicant has submitted this response without the benefit of a detailed interview with the Examiner and, as recommended by the Examiner, will call the Examiner to schedule an interview during the second week of October to discuss
10 this response in the continuing effort to move this application forward to allowance and issuance.

In the present Office Action at page 3, first paragraph, Applicant wishes to point out that the Examiner has incorrectly associated the term, "eligible," with the physical condition
15 of a check, i.e., "not in good standard", "folded or stain", "missing number", "not eligible for scanning", "not be able to interpret or understand", "waste of memory."

Applicant respectfully points out that an "eligible check," as used in the claimed invention, is defined in all independent Claims 1, 2, 3, 9, 15, and, 36, as a "consumer
20 check." More specifically, each of the independent claims includes the specific phrase (emphasis added):

"wherein an **eligible check** is defined as a **consumer check**"

25 Further, the Specification states on page 2, line7, that (emphasis added):

"Only **consumer checks** are **eligible** for conversion to ACH debits."

Still further, the Specification describes functionality of the system at page 16, line 11, to
30 include (emphasis added):

“Converting **eligible consumer** checks.”

Even further, the Specification states at page 18, lines 3-5, that (emphasis added):

5 **“Eligible items include: Consumer checks only”**

Although Applicant understands that it might be desirous to have a system that deals with checks that are not in good physical condition, whether a check is in good or poor physical condition has nothing to do with whether the check is deemed “eligible” in the
10 context of the claimed invention. An “eligible check” of the claimed invention is a “consumer check.” Applicant hopes that the above discussion sufficiently clarifies the definition of the term, “eligible,” as used in the claimed invention

In light of Applicant’s clarification of this particular limitation re: “eligible check”,
15 Applicant contends that the claimed invention is neither anticipated nor obvious in light of the cited references, and hence, Claims 1-56 are in allowable condition. Consequently, Applicant respectfully requests withdrawal of the rejections raised in the above referenced Office Action such that a Notice of Allowance is forwarded to Applicant and the present application is allowed to issue as a United States patent.

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Claim Rejections - 35 U.S.C. §103(a)

Claims 1-56

Claims 1-56 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Funk
25 (U.S. Pat. No. 5,832,463) and Downs, Jr. (U.S. Pat. No. 6,654,487) in view of newly found prior art of Guzman (U.S. 2003/0182227 A1.) Applicant respectfully traverses and Applicant incorporates the comments from Applicant’s previous responses herein.

With reference to the preceding remarks, Applicant submits that the above cited
30 references are misapplied due to the Examiner’s misinterpretation of the term, “eligible.”

Therefore, Applicant submits that independent Claims 1, 2, 3, 9, 15, and, 36, and, their respective dependent Claims 4-8, 10-14, 16-35, and 37-56, are allowable. Following is a more detailed discussion of Applicant's rebuttal of Examiner's arguments concerning the combination of the cited references. The following arguments apply to all of Claims 1-56 based on the Examiner's replication of his arguments for Claims 1 and 8-35, and, Claims 2-8 and 36-56.

First, Funk describes a process for electronically processing a check irrespective of whether a check is "eligible" or "ineligible" and does not describe a means for either automatically determining whether a check is "eligible" or a means for processing an "ineligible" check as a normal check as in the claimed invention.

Further, the Examiner states that Downs discloses "a predetermined set of MICR line validation rules" to "recognize invalid MICR line based on various rules." In the claimed invention, rules are applied to determine whether a check is "eligible" irrespective of whether the MICR line has been validated or not. In the present Office Action at page 3, second paragraph, the Examiner states that Funk fails to explicitly disclose "a various rules if the check cannot be converted to said ACH, processing the check". Applicant is confused by this reference and believes that perhaps this is an inadvertent and incorrect aggregation of various limitations of Claim 1. Regardless, Applicant respectfully submits that the reference of Downs is inapplicable since Downs is cited for validating MICR lines which has nothing to do with a process for determining whether a check is "eligible" as in the claimed invention.

Lastly, in the Office Action at page 3, third paragraph, the Examiner states that neither Funk nor Downs disclose the limitation of "an eligible check is defined as a consumer check," indicating that Guzman discloses this limitation. Applicant has reviewed the cited portions of Guzman and cannot find the description of this limitation in those cited portions. Consequently, Applicant contends that Guzman fails to implicitly or explicitly disclose the limitation that an "eligible check" is a "consumer check."

Therefore, Applicant respectfully submits that the combination of Funk, Downs and Guzman fails to teach or suggest all elements of the claimed invention. Further, given the misinterpretation of the term, "eligible," and the inadvertent incorrect application of the cited references, both individually and in combination, there exists no motivation to combine the references in the manner suggested by the Examiner to arrive at the claimed invention. Therefore, Applicant respectfully submits that the Examiner has failed to establish a prima facie case of obviousness under 35 U.S.C. §103(a).

Conclusion

Based on the foregoing, Applicant considers the present invention to be distinguished from the art of record. Accordingly, Applicant asserts that Claims 1-56 are in allowable condition and respectfully requests that the Examiner withdraw the rejections under 35 U.S.C. §103(a), such that a Notice of Allowance is forwarded to Applicant, and the present application is allowed to issue as a United States patent.

Should the Examiner deem it helpful to advance the instant application to allowance, the Examiner is encouraged and cordially invited to contact Applicant's attorney, Michael A. Glenn at (650) 474-8400.

Respectfully submitted,



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